



Federal Communications Commission  
Washington, D.C. 20554

November 30, 2010

**DA 10-2257**

Ramona P. Patts  
Division of Support Services Administrator  
City of Columbus  
220 Greenlawn Ave.  
Columbus, OH 43223

Dear Ms. Patts:

This is in reference to the renewal of license for Microwave Industrial/Business Pool Station WPOT830, Columbus, Ohio, licensed to the City of Columbus, Division of Support Services (Columbus).<sup>1</sup> The license expired on July 9, 2009.<sup>2</sup> Columbus requests a waiver to allow consideration of its late-filed Renewal Application.<sup>3</sup> For the reasons stated below, we deny Columbus' Waiver Request and dismiss its late-filed Renewal Application.

On July 9, 1999, the Wireless Telecommunications Bureau (Bureau) granted Columbus's application for license for Station WPOT830.<sup>4</sup> The license expired on July 9, 2009.<sup>5</sup> In its Waiver Request, Columbus explains that its license expired as a result of a failure to update the point of contact for the license, and for that reason, the administrator to whom the renewal reminder notice was directed to had been retired for more than six years; therefore, the pending expiration went unnoticed; and the application for renewal was never filed.<sup>6</sup>

The Commission's policy regarding reinstatement procedures in the Wireless Radio Services is as follows: Renewal applications that are filed up to thirty days after the expiration date of the license will be granted *nunc pro tunc* if the application is otherwise sufficient under the Commission's Rules, but the licensee may be subject to an enforcement action for untimely filing and unauthorized operation during the time between the expiration of the license and the untimely renewal filing.<sup>7</sup> Applicants who file renewal applications more than thirty days after the license expiration date may also request renewal of the license *nunc pro tunc*, but such requests will not be routinely granted, will be subject to stricter review, and also may be accompanied by enforcement action, including more significant fines or forfeitures.<sup>8</sup> In determining whether to reinstate a license, we consider all of the facts and circumstances,

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<sup>1</sup> File No. 0004386782 (filed Sep. 14, 2010) (Renewal Application).

<sup>2</sup> See File No. 748706 (granted Jul. 9, 1999).

<sup>3</sup> Renewal Application, Waiver Request (Waiver Request).

<sup>4</sup> File No. 748706 (granted Jul. 9, 1999).

<sup>5</sup> *Id.*

<sup>6</sup> See Waiver Request.

<sup>7</sup> Biennial Regulatory Review - Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Memorandum Opinion and Order on Reconsideration*, WT Docket No. 98-20, 14 FCC Rcd 11476, 11485 ¶ 22 (1999) (*ULS MO&O*).

<sup>8</sup> *Id.* at 11486 ¶ 22.

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including the length of the delay in filing, the reasons for the failure to timely file, the potential consequences to the public if the license should terminate, and the performance record of the licensee.<sup>9</sup> Taking into account all the facts and circumstances of the instant matter, including the specific factors set forth by the Commission, we conclude that Columbus' Renewal Application should be dismissed.<sup>10</sup>

Pursuant to Section 1.949(a) of the Commission's rules, licensees must file renewal applications no later than the expiration date of the license for which renewal is sought.<sup>11</sup> In fact, licenses automatically terminate upon the expiration date, unless a timely application for renewal is filed.<sup>12</sup> Applicants may, however, file an application for renewal and request for waiver of the filing deadline if the renewal application is not filed in a timely manner. A waiver of the Commission's rules may be granted where the applicant demonstrates that (1) the underlying purpose of the rule would not be served or would be in the public interest; or (2) in view of unique or unusual factual circumstances of the instant case, application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>13</sup>

Significantly, Columbus fails to provide any reason concerning why a waiver grant is warranted under the circumstances presented. It is apparent from the Waiver Request that Columbus' failure to file its license renewal applications in a timely manner was due to its own administrative oversight.<sup>14</sup> As has been previously held, an inadvertent failure to renew a license in a timely manner is not so unique and unusual in itself as to warrant a waiver of the Commission's Rules.<sup>15</sup> Further, each licensee is solely responsible for knowing terms of its license and submitting a renewal application to the Commission in a timely manner.<sup>16</sup> Thus, we deny Columbus' request for waiver of the license expiration date of its renewal and dismiss the application as untimely filed.

If Columbus wishes to obtain a new regular authorization for this station, it may file a new, properly coordinated application.<sup>17</sup> If it needs to continue operating the facilities in the meantime, it can seek special temporary authority (STA) pursuant to Section 1.931 of the Commission's Rules.<sup>18</sup>

Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.925 of the Commission's Rules, 47 C.F.R.

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<sup>9</sup> *Id.* at 11485 ¶ 22.

<sup>10</sup> *See, e.g.,* WSYX Licensee, Inc., *Order*, 15 FCC Rcd 19084 (WTB PSPWD 2000) (denying a request for waiver of Section 1.949 of the Commission's Rules to allow submission of late-filed renewal applications after the licenses expired, and dismissing the subject applications).

<sup>11</sup> 47 C.F.R. § 1.949(a).

<sup>12</sup> 47 C.F.R. § 1.955(a)(1).

<sup>13</sup> 47 C.F.R. § 1.925(b)(3).

<sup>14</sup> *See* Waiver Requests.

<sup>15</sup> *See* AlarmNet, Inc., *Letter*, 24 FCC Rcd 11766 (WTB BD 2009); ConocoPhillips Communications Inc., *Letter*, 24 FCC Rcd 11755 (WTB BD 2009); Fresno City and County Housing Authorities, *Order on Reconsideration*, 15 FCC Rcd 10998, 11002 ¶ 11 (WTB PSPWD 2000) (citing Plumas-Sierra Rural Electric Cooperative, *Order*, 15 FCC Rcd 5572, 5575 ¶ 9 (WTB PSPWD 2000)).

<sup>16</sup> *ULS MO&O*, 14 FCC Rcd at 11485 ¶ 21; Amendment of Parts 1 and 90 of the Commission's Rules Concerning the Construction, Licensing, and Operation of Private Land Mobile Radio Stations, *Report and Order*, PR Docket No. 90-481, 6 FCC Rcd 7297, 7301 n.41 (1991).

<sup>17</sup> *See* 47 C.F.R. § 101.103.

<sup>18</sup> *See* 47 C.F.R. § 1.931.

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§ 1.925, the request for waiver of the license expiration date and reinstatement of the license for WPOT830, filed by the City of Columbus on September 14, 2010 IS DENIED, and application File No. 0004386782 SHALL BE DISMISSED.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble  
Deputy Chief, Broadband Division  
Wireless Telecommunications Bureau